

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

JAMES MASON BIBB, §  
§  
Plaintiff, §  
§  
VS. § CIVIL ACTION H-13-3736  
§  
HARRIS COUNTY SHERIFF and §  
HARRIS COUNTY SHERIFF, §  
§  
§  
Defendants. §

**OPINION AND ORDER**

Pending before the Court in the above referenced civil rights action is *pro se* indigent Plaintiff James Mason Bibb's motion for appointment of counsel (instrument #4).

"[T]he appointment of counsel in a civil case is a privilege and not a constitutional right." *Lopez v. Reyes*, 692 F.2d 15, 17 (5<sup>th</sup> Cir. 1982).

Under 28 U.S.C. § 1915(e)(1), "The court may request an attorney to represent any person unable to afford counsel." Nevertheless, there is no automatic right to appointment of counsel in a civil case, and the court has considerable discretion in determining whether to do so. *Jackson v. Dallas Police Dep't*, 811 F.2d 260, 261 (5<sup>th</sup> Cir. 1986); *Salmon v. Corpus Christi Indep. Sch. Dist.*, 911 F.2d 1165, 1166 (5<sup>th</sup> Cir. 1990). An indigent civil litigant does not have an automatic right to appointed counsel absent "exceptional circumstances." *Norton v. E.U. Dimazana*, 122

F.3d 286, 293 (5<sup>th</sup> Cir. 1997); *Akasike v. Fitzpatrick*, 26 F.3d 510, 512 (5<sup>th</sup> Cir, 1994). A court may appoint counsel in a civil case if doing so would advance the proper administration of justice. *Ulmer v. Chancellor*, 691 F.2d 209, 212-13 (5<sup>th</sup> Cir. 1982). The court may consider the following factors in deciding whether exceptional circumstances justifying such an appointment are present and whether appointed counsel would facilitate the administration of justice: (1) the complexity of the suit; (2) the ability of the indigent litigant to present the case; (3) the litigant's ability to investigate the case; and (4) the skill required to litigate the case before the court. *Ulmer v. Chancellor*, 691 F.2d at 212-13. Here in his complaint Bibbs has described in detail and at length what happened to him. Defendants' motions have pointed out to him what he needs to plead to support his claims against the two sheriffs, and his supplements to his complaint by "motions for claim" (instruments 7 and 10) are being considered by this Court even though filed without leave.

As the Fifth Circuit recently stated, "[E]very litigant benefits by having an attorney. However the burden is on the plaintiff to demonstrate that, unique from other *pro se* litigants, he will have particular difficulty in investigating and presenting his case such that his situation justifies the special benefit of having counsel appointed to represent him." *Margin v. Social Security Administration*, Civ. A. No. 08-4605, 2009 WL 3673025, \*2

(5<sup>th</sup> Cir. Oct. 28, 2009). Plaintiff has made no such showing here. The Court finds no exceptional circumstances in the instant case to warrant appointment of counsel.

Accordingly, the Court

ORDERS that Bibb's motion for appointment of counsel is DENIED.

**SIGNED** at Houston, Texas, this 11<sup>th</sup> day of July, 2014.

Melinda Harmon  
MELINDA HARMON  
UNITED STATES DISTRICT JUDGE